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CADWALLADER COLDEN

ON

The Lands of New-York.

1732.

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THE STATE OF THE LANDS IN THE PROVINCE OF NEW YORK, IN 1732.

BY CADWALLADER COLDEN, SURVEYOR GENERAL.

[Colden Manuscripts, N. Y. Historical Society.]

In obedience to your Excellency's Commands, I now lay before you the State of the Lands in this Province, in the best manner I am capable of, by a plain Narrative of such facts as have come to my knowledge.

It may be necessary in the first place to observe, that the Kings Commissioners, who were sent in the year 1664 to reduce this Country to the Kings obedience (it being then in the possession of the Dutch) issued a Proclamation wherein they *Promised and Declared, that whosoever of what Nation soever will upon the Knowledge of this Proclamation, acknowledge and testify themselves to submit to his Majesties Government, as good subjects ought to do, shall be protected by his Laws and Justice, and peaceably enjoy what ever Gods blessing and their own industry hath furnished them with, and all other priviledges with English Subjects* And by the third article of Surrender, agree'd to with the Dutch Gov^r it is stipulated that *All People shall continue free Denizens, and enjoy lands, houses, goods, ships wheresoever they are within the County, and dispose of them as they please.* And by the eleventh Article *The Dutch here shall enjoy their own customs concerning inheritances.*

In pursuance of which the Inhabitants took out Confirmations of their Lands and tenements under the hand and seal of Coll Nicholls the first English Governor under the Duke of York in which their Title under the Dutch is recited, and the form of these Confirmations appear to be every where the same.

Gov^r Nicholls likewise granted unimproved Lands, to any that

were willing to settle and improve them and these first grants were made without any previous survey, or without reciting any certain Boundaries, but only to contain for example 100, 200 or 300 Acres adjoining to such another mans Land, or to a certain Hill or River, or Rivulet

The Reddendum in these first Grants varied from time to time. At first it was *Paying the usual Rents of New Plantations*, what that was is now a dispute, but perhaps it may still be ascertained by living Evidences and sometimes their is added as a condition of the Grant, that the Grantee *shall do and perform such acts and things as shall be appointed By his Royal Highness or his Deputy.*

In about a years time the form of the Reddendum was changed as follows *Paying such duties as shall be constituted and ordained by his Royal Highness and his heirs or such Gov^r or Gov^{rs} as shall from time to time be appointed or set over them.* It is probable people were not willing to accept of Grants upon such precarious terms and therefore we find this form soon after changed into the following, *Paying such duties and acknowledgements as now are or hereafter shall be constituted and established by the Laws of this Government.*

What Laws were then in being or afterwards enacted I know not tho^o perhaps they are still among the Records ; but it is to be observed, that the Legislative authority was then assumed by the Gov^r and Council without the assent or concurrence of the Representatives of the People and the Laws then made are now in disuse. And for this Reason, none of these Lands pay now any Quitrent, tho' their number be large, being, as I compute, not less than a Thousand : but I take into this computation all those grants in recording whereof the Clerks have omitted all that part of the grant which is commonly called the Habendum and Reddendum. The reason of which neglect, I suppose to be that they were all in the same words with a few that are Recorded at length in the begining, for so much is recorded as wherein they can differ, when the Habendum and Reddendum is the same viz The Motives to the Grant, the bounds to the thing granted, and the Grantees name and designation.

Before I proceed further, it will be likewise necessary to observe that the greatest part of Long Island, Viz all that part which lies opposite to Connecticut, was settled from Connecticut, and claimed by the Inhabitants under the Connecticut Title, to which in pursuance of the Proclamation above mentioned some regard is had. For the first, or at least the principle Grants of Lands upon this Island, are made in Townships according to the custom of Connecticut, & to the Freeholders and Inhabitants which suppossess a previous Title some I know, think that these Grants of Townships are not Grants of the Soil, but only for the Good Government of these parts of the Country, as I remember it is expressly mentioned in the Patents for the Townships of Southampton and Southold and perhaps it is so in others likewise, and the Governours who granted these Town Patents continued to grant the Soil, within the limits of these Townships, as some of the succeeding Governours did likewise, However most of all the Lands within these Townships are held by Grants from Trustees, or Common Council of these Towns upon the General Town rights only. If these Town Patents should not be valid, as to the whole Soil contained within their limits yet they may operate as a confirmation of the particular rights and possessions of those who are called freeholders in the said Grants. These Town Patents are generally upon small yearly acknowledgements—

Notwithstanding that the Gov^{rs} under the Duke of York, took these extraordinary methods to secure their Masters Authority, and interest, they made some Grants of Large Tracts of Land, upon trifling Quitrents but as these are very few, in Comparison of what happened afterwards what observations I have to make on this head will come in more properly in another place

Sir Edmond Andross the third English Gov^r of New York, as he seems to have had the interest of his Master and of the People he Governed as much at heart as any Gov^r that has at any time been set over this Province so he was very carefull in Granting of Lands: All Lands to be Granted were Surveyed before the Grant and bounded in the Grant according to the Survey. The Quitrents were likewise fixed by the Grant, generally at the rate of one Bushel each hundred acres tho' some times at a higher rate

and sometimes the rent was less, probably as the value of the land was represented. And as these grants are the most profitable to the Lords of the soil, so are they to the Tenant, they being free of all those disputes about their Boundaries which have in a great measure rendered some others useless to the grantees. Sr Edward has left but a few exceptions to be made to this general account given of his care of his Masters Interest. Coll Dungan who succeeded him, followed his steps in the Granting of Lands, but the exceptions to the General Good Rule are both more numerous and more considerable than in Sr Edmunds administration.

While Coll Dungan was Govr the Duke of York became King by which the property of the Soil and the Quitrents became annexed to the crown, and have continued so ever since, but as the Revolution happened soon afterwards, there is nothing material to be observed 'till after that time.

After the Revolution the Grants of Lands to all ran in the Kings name, whereas before that they were made in the Govrs name that granted the Land, and this method of Granting in the Govrs name was continued after the Duke of York became King, as it was before.

Coll Slaughter the first Governor after the Revolution, found the Country in such confusion and lived so short a while that I think only one Patent passed in his time for Lands. But Coll Fletcher, who succeeded him, made amends by the liberal hand with which he gave away Lands. The most extraordinary favors of former Govrs were but petty Grants in comparison of his. He was a generous man, and gave the Kings Lands by parcels of upwards of One hundred thousand Acres to a man, and to some particular favourites four or five times that quantity, but the King was not pleased with him, as I am told, and he was recalled in disgrace. This lavishing away of lands probably was one reason for

The Earl of Bellamont, who succeeded, having orders to use all legal means for breaking extravagant grants of Land, joined with the assembly in vacating several of the extravagant Grants made by Coll Fletcher but as this act was carried thro' with Spirit of party in the assembly, it passed with much less impartiality

than might have been expected from the Justice of the Legislature. For some of the most extravagant Grants were passed over, while some others were declared extravagant and vacated, that no way deserved that Character. However this act has considerably encreased his Majestys Quitrents for of these tracts which were then vacated, and which by their pattents were to pay altogether five beaver skins, one otter skin one fat Buck and twenty shillings the lands since that time regranted within the bounds of the said patents pay near four hundred pounds yearly at the rate of 2^s 6^d per hundred acres, notwithstanding that a great part of these lands still remain ungranted. The Earl of Bellamont's administration was short he being removed by Death before he could compleat the designs he had in view

After his death the administration fell into Capt Nafans hands, then Lieut Gov^r. It appears that the Grants made in his time pass'd in a hurry, without any previous Survey, but upon very uncertain informations of the natural Boundaries, which the Grantees took in their Grants, so that some of them are become a sort of ambulatory Grants. The Patentees claiming, by virtue of the same Grant, sometimes in One part of the Country, and sometimes in another, as they are driven from one place to another by others claiming the same lands with more certainty. In other grants we find the same persons joined in several Grants with others, which Grants were intended for different Tracts and in appearance seem to be so, and yet by their present claims they take in the same Lands within the bounds of their several grants.

The Earl of Bellamont was succeeded, after Queen Anns accession to the throne by her Cousin the Lord Cornbury. The Grants of large tracts upon trifling quitrents, that were made during his Lordships administration at least equalled those of all his predecessors put together. Indeed his Lordship's inclinations were so evident to every body at that time that two Gentlemen (as I am well assured) had agreed with his Lordship for a Grant of all the lands in the Province, at a Lump, which were not at that time granted, and that the only thing which prevented the passing of that grant was, that those Gentⁿ apprehended that the Grant would of itself appear so extravagant and would create so many

enemies, that they would not be able to hold it. During the Lord Cornbury's administration an act was likewise passed, repealing the act above mentioned for vacating the extravagant Grants of Land by Coll Fletcher. The vacating Act passed not long before King Williams Death, and lay in the offices in England without any notice taken of it, till after the Lord Cornbury was removed from his Government; then the vacating Act was confirmed and the Act repealing it was repeal'd by the Queen and at the same time new instructions were given to the Gov^r, by which the Quitrent was directed not to be less than 2^s 6^d each hundred acres, and previous Surveys were ordered to be made before the Grant should pass, which have effectually prevented the above mentioned abuses.

I shall now proceed to some more particular account of the great Grants of Lands, I mean of such as contain fifty thousand Acres and upwards to a Million of acres, for if I be not very much misinformed, there is more than one that contain that quantity.

No quantity of Land or number of Acres, for the most part, are mentioned in any of these Grants, nor is it possible to discover the Quantity, by inspection of the Patents, as it may be done in those Grants which are founded on a previous Survey and where any quantity is expressed, it seems to be done more with design to hide the real quantity (if their present claims be truly conformable to their original bounds) than to set forth the truth, for I have hear'd of one instance at least, where the patent Grants 300 acres, and the patentee now claims upwards of sixty thousand acres within the bounds of his Grant. Others suspecting that such disproportion, between the real quantity and the quantity express'd in the Grant, might invalidate the Grant, got the quantity of Land to be expressed in the following manner, Containing for example, One thousand acres of profitable Land, besides wood Land, and waste and yet, when these Lands were Granted, perhaps there was not ten acres that was not wood Land, or One Acre that at the time of the Grant yielded any profit or one acre that by improvement might not be made profitable. Others guard against this exception to their Grant, by adding to the quantity of Land expressed in the Grant these words *Be it more or less,*

or some such words, and by virtue of these they not only claim a small quantity more than is expressed in the patent, but claim twice as much, and often ten times as much, and sometimes above one hundred times the quantity of Land that is expressed in the Grant, but as I said before, generally no quantity of Land is expressed in the Large Grants

There being no previous Survey to the Grants, their Boundaries are generally expressed with much uncertainty, By the Indian names of Brooks, Rivulets, Hills, Ponds, Falls of water &c which were and still are known to very few Christians, and which adds to this uncertainty is, that such names as are in these Grants taken to be the proper name of a Brook, Hill, or Fall of water &c in the Indian Language signifies only a Large Brook or broad Brook, or small Brk, or high Hill, or only a Hill or fall of water in general, so that the Indians shew many places by the same name Brooks and Rivers have different names withe the Indians, at different places and often change their names, they taking their names often from the abode of some Indian near the place where it is so called. This has given room to some to explain and enlarge their Grants according to their own inclinations by putting the names mentioned in their grants to what place or part of the Country they please, of which I can give some particular instances where the claims of some have increased many miles, in a few years, and this they commonly do, by taking some Indians, in a Publick manner, to shew such places as they name to them, and it is too well known that an Indian will shew any place by any name you please, for the small reward of a Blanket or Bottle of Rum; and the names as I observed, being common names in the Indian language, and not proper ones as they are understood to be in English, gives more room to these Frauds

Several of the great Tracts lying on Hudson's River are bounded by that River, on the East or West sides and on the North and South sides by Brooks or Streams of Water which, when the Country was not well known, were supposed to run nearly perpendicular to the River, as they do for some distance from their mouths, whereas many of these Brooks run nearly parallel to the River and sometimes in a course almost directly opposite to the

River. This has created great confusion with the adjoining patents, and frequently Contradictions in the boundaries, as they are expressed in the same patent.

Sometimes the Grant is of the Land that belonged to such an Indian by name or is bounded by such an Indians land, but to prove that any particular spot belonged to any particular Indian, or to show the bounds of any particular Indian, I believe is beyond human skill, so as to make it evident to any indifferent man

I shall next recite what have been the consequences of these large Grants, It is evident that thereby the King has been deprived of almost all his Quitrents, which it appears by the powers given to the Gov^{rs} to grant Lands, the King design'd to reserve. But the consequence I think, has been much worse as to the improvement of the country for tho this Country was settled many years before Pennsylvania, and some of the Neighboring Collonies, and has many advantages over them, as to the situation and conveniencies of Trade, it is not near so well cultivated, nor are there near such a number of Inhabitants, as in the others, in proportion to the quantity of Land; and it is chiefly if not only where these large Grants are made where the Country remains uncultivated—tho they contain some of the best of the Lands, and the most conveniently situated. And every year the Young people go from this Province, and Purchase Land in the Neighbouring Colonies, while much better and every way more convenient Lands lie useless to the King and Country The reason of this is that the Grantees themselves are not, nor never were in a Capacity to improve such large Tracts and other People will not become their Vassals or Tenants for one great reason as peoples (the better sort especially) leaving their native Country, was to avoid the dependence on landlords, and to enjoy lands in fee to descend to their posterity that their children may reap the benefit of their labour and Industry There is the more reason for this because the first purchase of unimproved Land is but a trifle to the charge of improving them

It may perhaps deserve the consideration of those who are more capable of Political foresight than I am, whether, if these large Grants take place, as they are designed and become great Lord-

ships with large dependancies and revenues, whether this will secure or indanger the Dependancy of the Colonies on their Mother Country. I think few instances can be given where great changes were brought to effect, in any state but when they were headed by Rich and powerful men ; any other commotions generally produced only some short lived disorders and Confusions

Now that I have done with what is more peculiarly my business the Historical part of this representation, yet, as your Excellency did me the Honour likewise to ask my opinion of what Remedy may be most proper, and effectual, I flatter myself that the giving my opinion at large in writing will be most agreeable to your Excellency's commands.

What at first Sight occurs in the vacating or breaking these Grants by due course of Law, and indeed there seems in common justice to be room enough for it but (to the purely Legal part, as it is an art or science I pretend to no skill in it) It is evident that in many of these the Governor who granted them was deceived as to the quantity ; but that the King was deceived in all of them. The Gov^r who granted these large tracts, if they knew their extent, were guilty of a notorious breach of trust, and as it cannot be supposed, that they did this merely in the gayety of their heart, they must have had some temptation, and this must be supposed to proceed from those that received the Benefit of it. That therefore the Grantees are equally guilty with the Gov^r in deceiving the King, and likewise of defrauding all the adventurers or settlers in the Colony of their equal chance of obtaining the most improvable and convenient lands, and of preventing the improvement and settling of the Colony for which purpose only the Lands are supposed to be Granted. These things supposed, I can make no doubt of a remedy in the common course of the Law, but notwithstanding of this I apprehend, that it will be accompanied with so many difficulties, that it will be better to think of some other. For all attempts, of those in the administration upon the properties of the subjects, are looked upon with an evil eye and as dangerous, and will be more so in this Country, where perhaps few Grants in America are made with such skill and care that some flaw may not be found in them by a strict and legal

search, so that every man will be apt to look upon any attempt of this kind, as in some measure his own case, and those that are really concerned will use all their Art to stir up the people to make it a Country Quarrel To prevent this it may be proposed, to give an absolute confirmation of all the Grants excepting such as are truly extravagant But it will be difficult how to define or determine the Grants that are truly such without making the exceptions to general or too particular, by naming the particular Grants to be excepted

The following proposal seems to me to be more practicable, Viz to abolish all the present rents, by an act of the Legislature, and in lieu of them to establish the Quitrents of all passed grants at 2^s 6^d p^r hundred acres, with an absolute Confirmation of all Grants upon their paying the said Quitrents. This would effectually restore the Quitrents, and would as effectually destroy all the Gr^{ts} which are truly extravagant. I mean such as the Proprietors cannot improve in any reasonable time for as this rent would be very heavy where the Tracts exceed twenty or thirty thousand acres, the Patentees would gladly surrender their Grants, to free themselves from this Burden, but at the same time it would be just to preserve to them their improved Lands under proper restrictions of not rendering useless any part of what is not delivered up.

The Quitrents would in this case be sufficient to support the Government, and if they were applied to that purpose, I believe would give a general satisfaction, because it would be as equal a Taxation as could well be contrived, and the taxes would not, as they do now, fall only upon the improvements and the industry of the people. It wou^d likewise absolutely remove the complaints of the Merchants, so that it would generally please all sorts, excepting the owners of the large Tracts—And I humbly conceive it for the Kings interest and of all those in the Administration to consent to this, because the Quitrents are of no use besides paying the Salary of the Receiver and Auditor, and that Gentlemans Estate would be thought to be ill managed, when it only paid his Steward and his Clerks wages. Besides when the revenue shall be fixed in this manner it will be much easier to obtain extraor-

dinary supplies when they shall be wanted, and it will likewise be much easier for the People to pay them

The chief objection, which I can conceive, that will be made to this is that if a perpetual revenue be Granted, then the Gov^{rs} will be free'd from that dependance on the People, and check on their behaviour that is necessary in all well ballanced Governments and which is the only check which the poor people have in America and that without such check the people of the Plantations may become a prey to Rapacious Tyrannical Gov^{rs} or other officers, tho the people do not doubt of their obtaining relief from the King, and his Ministers yet that relief is at such a distance, and must be attended with so much charge, that few private persons can have any benefit by it, and may often prove ineffectual by being too late even when many join in the complaint. Therefore unless some effectual solid check be given to the people, in lieu of what they have at present, by granting the Revenue for a short time, it cannot be expected that ever they will consent to a perpetual Revenue of any kind, or that they will be easy under it.

Now I have laid before your Excellency in the best manner I can within the bounds I think it necessary to confine myself, the most material things concerning the Grants of Lands, as far as relates to the King, the people of the Province, and the Grantees. If the remedy for the abuses set forth be thought practicable, no doubt your Excellency will easily obtain an Instruction, such as the Earl of Bellamont had to propose to the Assembly to find some proper means for establishing the Quitrents generally over all the lands in Province at the same rate and for promoting the improvement and settling of the Country, for that otherwise the King will take such legal methods, as shall be thought proper for vacating extravagant Grants, and receiving his Quitrents. And if there be a permission given at the same time to apply the Quitrents to the support of Government, and absolutely to confirm all past Grants, I believe an Assembly may conform with the Instructions, under such restrictions as shall be thought necessary checks on the officers—

In order to compute what the Quitrents would immediately yield I make the following calculation—

Long Island is computed to be 150 miles long, and Albany to be the same number of miles distant from New York, I suppose Long Island to be eight miles wide, one place with another, and that 10 miles on each side Hudson's River would immediately pay rent, this amount to — 2,688,000 Acres which at 2^s 6^d the hundred will yield £3350, and if the Cities of New York and Albany pay a reasonable Quitrent for their house lots the whole Quitrent will immediately amount to 4000 pounds yearly, which is more than the Assembly has at any time given for the support of Govern^t

It may be objected that the length of Long Island and distance to Albany may be less than what is vulgarly computed: That New Jersey extends 20 miles on one side Hudson's River: and that some Mountainous places, within my computation will yield no quitrent in this age but if it be considered that Staten Island is not within the Computation that the settlements extend 30 Miles beyond Albany, and that many settlements are twenty miles from the river and some thirty miles, it will be granted the Quitrents will at least amount to the sum above mentioned.

In the last place it may be objected, that the Kings Ministers design the Quitrents for other uses, but if it be considered of what consequence it is to free the Kings Officers of that immediate dependance on the humours of an Assembly, they are now under for their daily support, I believe it will be thought more for His Majestys service to apply the Quitrents to the support of the Administration in this Province, than to the uses the Quitrents have been hitherto applied.

NOTE.—Appended to the copy of the preceding, in possession of the N. Y. Historical Society, is the following memorandum, in the hand-writing of Lieut. Governor COLDEN :—

MAY 6th, 1752.

It is now twenty years since I delivered the above Memorial to Col. Cosby, soon after his arrival. I question whether ever he read it. I have reason to think he gave it to the person in whom

he then confided who had no inclination to forward the purposes of it. It had no other effect than to be prejudicial to myself.

The computations of what the lands would have at that time produced at 2^s 6^d p^r hundred acres I believe were made within bounds. The settlements are greatly increased since that time more than in fifty years before it so that I make no doubt they will produce six thousand pounds a year taking in a reasonable Quitrent for the house lots in the Cities of New York and Albany.

I forgot to mention that it appears from the Records that numbers of house lots were granted under the yearly Quitrents of one shilling two shillings &c or some such small rent which I believe is now never paid.

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